



BENJAMIN ROBERTS
ATTORNEY AT LAW

May 9, 2019

Via Electronic Filing and Email:

Ms. Cynthia Horace
Case Manager for Judge Kenneth M. Hoyt
United States District Court
P.O. Box 61010
Houston, TX 77208-1010

RE: C.A. No. 4:19-cv-01460; *Rogelio Lopez Munoz, et al. v. Intercontinental Terminals Company LLC*; In the United States District Court for the Southern District of Texas, Houston Division

Dear Ms. Horace:

In response to Defendant's request that Plaintiffs' Motion for Voluntary Dismissal Without Prejudice be heard concurrently with a presumed but yet unfiled Motion to Remand, Plaintiffs request the Court hear, or rule, on Plaintiffs' Motion for Voluntary Dismissal Without Prejudice prior to Plaintiffs' deadline to file a Motion to Remand. The relief sought in a voluntary dismissal without prejudice is different than the relief sought from a motion to remand. By filing a Voluntary Dismissal Without Prejudice, Plaintiffs have elected to temporarily dispense with prosecuting their claims, but in a remand, Plaintiffs would be seeking to continue to prosecute their existing claims in the originally filed forum.

Plaintiffs have sought leave to voluntarily dismiss without prejudice their claims ahead of the remand deadline to avoid additional costs for both parties. Defendant ITC has already responded to a similar motion for leave to voluntarily dismiss without prejudice in another one of the cases against it stemming from the recent fire at its La Porte facility. Specifically, in *Norma Mottu v. ITC* (C.A. No. 4:19-cv-01428), ITC also requested Honorable Judge Gray Miller to consider the *Mottu* Plaintiff's voluntary dismissal simultaneously with a hypothetical motion for remand. The Court rejected this request and ITC responded to the the *Mottu* Plaintiff's motion for voluntary dismissal.

To the extent Defendant ITC is opposed to Plaintiffs' Motion for Voluntary Dismissal Without Prejudice, Defendant can simply adopt the same opposition it already presented in *Norma Mottu v. ITC*. Therefore, Plaintiffs' again request the Court hear, or rule, on their Motion for Voluntary Dismissal without Prejudice prior to the deadline to remand, or Defendant's Motion to Consolidate.

Respectfully yours,

Benjamin R. Roberts